

IFW DAC



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Utility Patent Application of)
Stephen P. Finch)
Serial No. 10/757,246)
Filed January 14, 2004)
Method for Extracting Gluten)

Mail Stop: PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir or Madam:

Request for Reconsideration of Petition under 37 CFR 1.47(b)

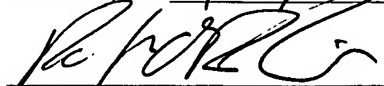
Petitioner, ICM, Inc. hereby submits this request for reconsideration. Enclosed herewith is a substitute declaration. The substitute declaration is signed by David Vander Griend, President of ICM, Inc. in behalf of the non signing inventor Stephen P. Finch. The substitute declaration indicates the position held by Mr. Vander Griend. Also enclosed is a copy of the decision refusing status under 37 CFR 1.47(b) stated the now corrected deficiency.

ICM respectfully request that this petition to permit filing of the application on behalf of the non-signing inventor be granted.

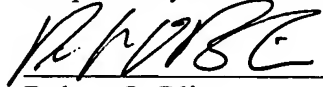
I hereby certify that this paper is being deposited with the U.S. Postal Service with sufficient postage as first class mail addressed to the Commissioner for Patents, Mail Stop: Petition, PO Box 1450, Alexandria VA. 22313-1450,

Date of Deposit

8/25/2004


Robert O. Blinn P.O. Reg. No. 36,751

Respectfully Submitted



Robert O. Blinn

8/25/2004

Date

Patent Office Reg. No. 36,751

P.O. Box 75144

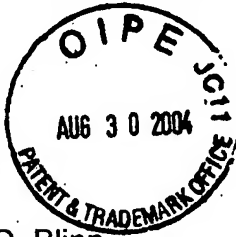
Wichita KS 67275

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Robert O. Blinn
P.O. Box 75144
Wichita KS 67275-0144

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JUL 21 2004

OFFICE OF PETITIONS

In re Application of
Stephen Patrick Finch
Application No. 10/757,246
Filed: January 14, 2004
Attorney Docket Number: 3018W
Title: Method For Extracting Gluten

:
:
: **DECISION REFUSING STATUS**
: **UNDER 37 C.F.R. §1.47(b)**
:
:
:

This is in response to the petition under 37 C.F.R. §1.47(b), filed June 8, 2004.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on January 14, 2004, without an executed oath or declaration, and naming Stephen Patrick Finch as sole inventor. Accordingly, on April 20, 2004, a Notice to File Missing Parts of Application - Filing Date Granted was mailed, requiring applicant to submit an executed oath or declaration and pay a surcharge for late filing. The Notice set an extendable two month period for reply.

In reply, applicant filed the instant petition, the surcharge for late filing of the declaration, and a declaration.

A grantable petition under 37 C.F.R. §1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is necessary to preserve the rights of parties or to prevent irreparable damage. Rule 47 applicant has failed to provide item (2).

As to item (2), Although a declaration which contains the non-signing inventor's signature block and was executed by David Vander Griend, President of ICM was presented with the petition, the title or position of the person signing must also be stated if signing on behalf of a corporation under 37 CFR §1.47(b). See MPEP 409.03(b). It is not sufficient to reference an appendix.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(703) 872-9306

By delivery service:
(FedEx, UPS, DHL, etc.)

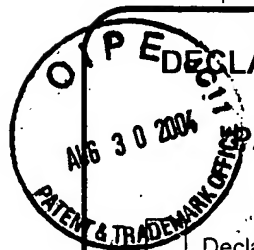
U.S. Patent and Trademark Office
2011 South Clark Place
Customer Window, Mail Stop Petition
Crystal Plaza Two, Lobby, Room 1B03
Arlington, VA 22202

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 306-0251.



Charlema R. Grant
Petitions Attorney
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.



DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)

☐ Declaration
Submitted
with Initial
Filing

OR

☒ Declaration
Submitted after Initial
Filing (surcharge
(37 CFR 1.16 (e))
required)

| | |
|--------------------------|------------------|
| Attorney Docket Number | 3018W |
| First Named Inventor | Stephen P. Finch |
| COMPLETE IF KNOWN | |
| Application Number | 10 / 757,246 |
| Filing Date | 01/14/2004 |
| Group Art Unit | |
| Examiner Name | |

As a below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Method for Extracting Gluten

(Title of the Invention)

the specification of which

☐ is attached hereto

OR

☒ was filed on (MM/DD/YYYY) 01/14/2004 as United States Application Number or PCT International

Application Number 10/757,246 and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

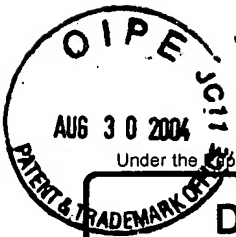
I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

| Prior Foreign Application Number(s) | Country | Foreign Filing Date (MM/DD/YYYY) | Priority Not Claimed | Certified Copy Attached? | |
|--|---------|-------------------------------------|--------------------------|--------------------------|--------------------------|
| | | | | YES | NO |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| | | | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

[Page 1 of 2]

**DECLARATION — Utility or Design Patent Application**Direct all correspondence to: ☒ Customer Number or ☐ Correspondence address below

Name Robert O. Blinn

Address P.O. Box 75144

City Wichita State KS ZIP 67275

Country USA Telephone (316) 773-3270 Fax (316) 729-5918

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR : ☒ A petition has been filed for this unsigned inventorGiven Name Stephen Patrick Family Name Finch
(first and middle [if any]) or Surname

Inventor's Signature (See Below) Date

Residence: City New London State WI Country USA
USA Citizenship

Mailing Address N 3491 Pamela Lane

City New London State WI ZIP 54961 Country USA

NAME OF SECOND INVENTOR: ☐ A petition has been filed for this unsigned inventorGiven Name David Family Name Vander Griend
(first and middle [if any]) or SurnameInventor's Signature *D. W. Griend* Date 8-20-04
(President, ICM, Inc. signing on behalf of Stephen Patrick Finch)Residence: City 2729 Wilbrosch State KS Country USA
Wichita USA Citizenship

Mailing Address

City State ZIP Country

☐ Additional inventors are being named on the _____ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto.